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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 AT&T MOBILITY LLC,

11 Plaintiff,

12 v.

13 MARC SAPATIN, SAPATIN NGUYEN
14 ENTERPRISES, INC., SAPATIN
15 ENTERPRISES, INC., NGUYEN LAM,
KYRA EVANS, PRASHANT VIRA, SWIFT
UNLOCKS, INC. and JOHN DOES 1-50,
United States individuals and entities,

16 Defendants.

No. 2:15-cv-01462-RSM

ORDER GRANTING PLAINTIFF'S
NOTICE OF NON-OPPOSITION TO
MOTION TO REOPEN AND
PROPOSED STIPULATION

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18 This matter came on for hearing upon the motion of Plaintiff AT&T Mobility LLC for
19 an order, pursuant to Federal Rule of Civil Procedure 60(b), to set aside this Court's
20 September 23, 2019 Order of Dismissal (Dkt. 47).¹ Having considered Plaintiff's motion, the
21 accompanying declarations, and the non-opposition to Plaintiff's motion by the Defendants
22 and analyzing the factors of *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507
23 U.S. 380, 395 (1993), the Court finds that Plaintiff's failure to respond to the Court's Order to
24 Show Cause (Dkt. 46) was the result of excusable neglect. Pursuant to Rule 60(b), the Court
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26 ¹ The Court has made minor deviations from the proposed stipulated order submitted.

1 hereby sets aside its September 23, 2019 Order of Dismissal and reinstates this case, subject
2 to the following conditions:

3 a. AT&T's Complaint solely as to Defendant Nguyen Lam is hereby
4 DISMISSED.

5 b. This case is hereby stayed until June 1, 2020, subject to the additional
6 conditions below.

7 c. AT&T may only seek relief from the stay as to a currently named Defendant if
8 restitution is not adjudicated in related criminal proceedings. AT&T's right to seek relief
9 from the stay to seek leave to amend the Complaint to name additional defendants, however,
10 shall not be restricted by this Order.

11 d. AT&T shall promptly dismiss with prejudice all claims against each Defendant
12 whose criminal proceeding is final and has resulted in AT&T having the opportunity to
13 request restitution against that Defendant.

14 e. For the avoidance of confusion, such dismissal shall occur no later than ten
15 (10) days after AT&T is notified that a guilty plea has been entered that affords AT&T the
16 opportunity to request restitution against that particular Defendant and a sentence against that
17 particular Defendant has been entered.

18 f. If a related criminal proceeding has not yet resulted in the adjudication of
19 restitution as to a particular Defendant by the time this stay expires, the remaining Parties
20 shall stipulate to an additional stay, subject to approval by the Court, under the same terms as
21 set forth herein.

22 g. AT&T shall not pursue claims against a remaining Defendant unless AT&T is
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1 denied the opportunity to request restitution in that Defendant's criminal case.

2 h. AT&T's dissatisfaction with the amount of restitution awarded against a
3 particular Defendant, or a criminal court's decision not to award any restitution to AT&T,
4 shall not provide AT&T with a basis to pursue claims against that Defendant.
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6 i. AT&T will report to the Court by no later than June 1, 2020 regarding the
7 status of all federal criminal investigations into the Defendants and whether there are grounds
8 that would warrant allowing the case to remain open.

9 DATED this 11th day of March 2020.

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11 RICARDO S. MARTINEZ
12 CHIEF UNITED STATES DISTRICT JUDGE
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